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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,833	02/18/2004	Steven F. Knittel	KNITTEL, ET AL. (LCNT/126	3728

46363 7590 07/25/2008

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EXAMINER	
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ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
07/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/780,833
Filing Date: February 18, 2004
Appellant(s): KNITTEL ET AL.

Eamon J. Wall (Reg. # 39,414)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/19/2008 appealing from the Office action (Advisory Action) mailed 03-21-2008 and the final rejection mailed 01/30/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is missing claims 6 and 25 from the list of amended claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US-2002/0065800 A1	05-2002	Morlitz, David M.
US-7,231,357 B1	06-2007	Shanman et al.
US-7,216,154 B1	05-2007	Chow et al.
US-7,206,777 B2	04-2007	Pepper et al.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 6-9, 11-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Morlitz (US Patent Application Publication # 2002/0065800 A1**), in view of **Pepper et al. (US Patent Publication # 7,206,777 B2).**

Consider **claim 1**, Morlitz shows and discloses an apparatus for use in a communication network (Fig. 1, client computers 10, with communication links 14 to the Internet 16, which in turn is linked to proxy servers 28 by links 32, to web servers 22 by links 30, and to storage media 34 by links 36, thereby forming a communication network apparatus; paragraphs 0018-0020 disclose the same details), comprising:
a gateway operable within said network for receiving a request for a resource having embedded data and, in response to said request, for obtaining said resource and said

embedded data, for bundling said resource and said embedded data into a file, and for sending said file (Abstract that discloses a client computer 10 making a request for a web page that has embedded child web pages and graphics and audio resources linked with the requested parent page; the web server collects all the resources associated with the requested web page and bundles them into a single archive file, which is sent to the requesting client as a response; Fig. 1 that shows a proxy server acting as a gateway to direct client's web page request to the web server; paragraph 0019 that discloses the proxy server; Fig. 2 which shows that the requested parent web page 52 has embedded child web pages 54, 56 and 58, which have embedded resources 66, 68, 70 (for parent) and 72, 74, 76, 78, 80 and 82 (for child web pages) within them; paragraphs 0024-0025 disclose the same details; Fig. 3 that shows the contents of a bundled and compressed archive file 102, assembled by the web server 22 and sent to the requesting client as a response; as well as a client request 100 that shows the URL of the web page being requested; paragraphs 0024-0028 and 0034 describe the same details).

However, Morlitz does not specifically mention using a resource index file having information regarding said resource and said embedded data.

In the same field of endeavor, Pepper et al. show and disclose using a resource index file having information regarding said resource and said embedded data (Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig.

2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a resource index file having information regarding said resource and said embedded data, as taught by Pepper et al., in the apparatus of Morlitz, so as to render the requested resource and all the embedded data within it to the web client for complete web page display.

Consider **claim 2** and **as it applies to claim 1 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein the request is a uniform resource identifier (in Morlitz reference, Fig. 3, Client request 100 which shows that the client request specifies a URL of a home web page; paragraph 0028, lines 4-9 disclose the same details).

Consider **claim 6** and **as it applies to claim 1 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein the gateway updates a request index file based on said obtained resource and on said embedded data (in Morlitz reference, paragraph 0028, lines 4-25 which disclose that the embedded files are extracted to the depth specified in the client's request, thereby indicating updates to a request index file based on the obtained resource and the embedded data extracted to the level of the specified depth only).

Consider **claim 7** and **as it applies to claim 1 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein the resource index file includes information for obtaining the resource and its embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Consider **claim 8** and **as it applies to claim 1 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein the resource index files include links to embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, shows a link xlink:href="blogg.jpg" in the PHOTO tag being included in the resource index file).

Consider **claim 9** and **as it applies to claim 8 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein the gateway produces a listing of the links to the embedded data, sends uniform resource location requests for the embedded data, and receives the embedded data from the links (in Morlitz reference, paragraph 0028, lines 9-23 which disclose that the web server 22 collects

links for all the child web pages, grand-child pages, and embedded graphics, audio and other resources to the requested depth, and sends requests with URLs of the embedded resources, in turn receiving the embedded resource content, which it then packages and send the collected resources as a bundled response to the requesting client).

Consider **claim 11** and **as it applies to claim 1 above,** Morlitz, as modified by Pepper et al., further discloses the claimed apparatus, wherein said gateway performs data acceleration, compression, trans-coding, or application-based optimization on said resource and said embedded data (in Morlitz reference, abstract that discloses compressing the web pages including their embedded resources; paragraph 0011 which discloses that the archive file 102 contains compressed plurality of resources).

Consider **claim 12**, Morlitz shows and discloses an apparatus for use in a communication network (Fig. 1, client computers 10, with communication links 14 to the Internet 16, which in turn is linked to proxy servers 28 by links 32, to web servers 22 by links 30, and to storage media 34 by links 36, thereby forming a communication network apparatus; paragraphs 0018-0020 disclose the same details), comprising:
a gateway for receiving a request for a resource having embedded data and, in response to said request, for obtaining said resource and said embedded data, for bundling said resource and said embedded data into a response file, and for updating said resource index file (Abstract that discloses a client computer 10 making a request

for a web page that has embedded child web pages and graphics, audio and other resources linked with the requested parent page; Fig. 1 that shows a proxy server acting as a gateway to direct client's web page request to the web server; paragraph 0019 that discloses the proxy server; Fig. 2 which shows that the requested parent web page 52 has embedded child web pages 54, 56 and 58, which have embedded resources 66, 68, 70 (for parent) and 72, 74, 76, 78, 80 and 82 (for child web pages) embedded within them; paragraphs 0024-0025 disclose the same details; paragraph 0030 that discloses using site maps (resource index files) to determine the interrelationship of the web pages on the site in order to obtain the requested resource and associated embedded data; Fig. 3 that shows the contents of a bundled and compressed archive file 102, as well as a client request 100 that shows the URL of the web page being requested; paragraphs 0024-0027 describe the same details; paragraph 0028, lines 9-23 which disclose that the web server 22 collects links for all the child web pages, grand-child pages, and embedded graphics, audio and other resources to the requested depth (by sending requests with URLs of the embedded resources, and in turn receiving the embedded resource content), in order to package and send the collected resources as a response to the requesting client; paragraph 0028, lines 4-25 which disclose that the embedded files are extracted to the depth specified in the client's request, thereby indicating updates to the resource index files based on said obtained resource and on said embedded data).

However, Morlitz does not specifically mention using a resource index file having information regarding said resource and said embedded data.

In the same field of endeavor, Pepper et al. show and disclose using a resource index file having information regarding said resource and said embedded data (Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a resource index file having information regarding said resource and said embedded data, as taught by Pepper et al., in the apparatus of Morlitz, so as to render the requested resource and all the embedded data within it to the web client for complete web page display.

Consider **claim 13** and **as it applies to claim 12 above,** Morlitz discloses the claimed apparatus, wherein said resource index file includes information for obtaining the resource and said embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Consider **claim 14** and **as it applies to claim 12 above,** Morlitz discloses the claimed apparatus, wherein said resource index file includes links to said embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, shows a link xlink:href="blogg.jpg" in the PHOTO tag being included in the resource index file).

Consider **claim 15** and **as it applies to claim 14 above,** Morlitz discloses the claimed apparatus, wherein said gateway produces a listing of said links to said embedded data, sends uniform resource location requests for said embedded data, and receives said embedded data from said links (in Morlitz reference, paragraph 0028, lines 9-23 which disclose that the web server 22 collects links for all the child web pages, grand-child pages, and embedded graphics, audio and other resources to the requested depth, and sends requests with URLs of the embedded resources, in turn receiving the embedded resource content, then packages and send the collected resources as a response to the requesting client).

Consider **claim 16**, Morlitz shows and discloses a method of operating a gateway, comprising:
receiving a request for a resource having embedded data (Abstract that discloses a client computer 10 making a request for a web page that has embedded child web

pages and graphics and audio resources linked with the requested parent page; Fig. 1 that shows a proxy server acting as a gateway to direct client's web page request to the web server; paragraph 0019 that discloses the proxy server; Fig. 2 that shows that the requested parent web page 52 has embedded child web pages 54, 56 and 58, which have embedded resources 66, 68, 70 (for parent) and 72, 74, 76, 78, 80 and 82 (for child web pages) within them; paragraphs 0024-0025 that disclose the same details);

obtaining information regarding the resource and embedded data (paragraphs 0029-0030 which disclose that the details of the embedded resources are obtained from metadata);

obtaining the resource and embedded data using the obtained information (Fig. 3; paragraph 0028 that disclose the process of collecting the resource requested by the client computer 10 and all the embedded resources associated with the requested resource (web page) and packaging them into an archive file 102; paragraphs 0029-0030 further disclose that the details of the embedded resources are obtained from site maps (resource index files));

bundling the obtained resource and obtained embedded data into a response file (Fig. 3 that shows the contents of a bundled and compressed archive file 102 sent as a response; paragraphs 0029-0031 describe the same details); and

sending the response file (Fig. 3, HTTP Server Response 104 being sent to the client computer 10; paragraph 0034, lines 1-4 that disclose the same details).

However, Morlitz does not specifically mention using a resource index file having information regarding said resource and said embedded data.

In the same field of endeavor, Pepper et al. show and disclose using a resource index file having information regarding said resource and said embedded data (Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a resource index file having information regarding said resource and said embedded data, as taught by Pepper et al., in the apparatus of Morlitz, so as to render the requested resource and all the embedded data within it to the web client for complete web page display.

Consider **claim 18** and **as it applies to claim 16 above,** Morlitz, as modified by Pepper et al., further discloses the claimed method, wherein the resource index file comprises a pre-compiled resource index file (flowchart in Fig. 2, decision block S4 that checks whether resources being requested have been previously stored, and if so not to store them again, thereby disclosing a pre-compiled resource index file; Fig. 4 that shows use of Cache 310 to access requested resources from Cache, if they are available there, further disclosing a pre-compiled resource index file).

Consider **claim 19** and **as it applies to claim 16 above,** Morlitz, as modified by Pepper et al., further discloses the claimed method, wherein the resource index file includes links to the embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, shows a link xlink:href="blogg.jpg" in the PHOTO tag being included in the resource index file).

Claims 3, 4, 17, 20-23, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Morlitz (US Patent Application Publication # 2002/0065800 A1**), in view of **Pepper et al. (US Patent Publication # 7,206,777 B2)** and further in view of **Shanman et al. (US Patent Publication # 7,231,357 B1).**

Consider **claim 3** and **as it applies to claim 2 above,** Morlitz, as modified by Pepper et al., discloses the claimed apparatus, except wherein the request is received from a wireless access network.

In the same field of endeavor, Shanman et al. disclose that the request is received from a wireless access network (column 4, lines 45-52 that disclose using a wireless network to distribute discount coupons along with a customized shopping list).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a wireless access network for receiving client requests, as taught by Shanman et al., in the apparatus of Morlitz, as modified by

Pepper et al., so that the customers can send their shopping requests from anywhere using their wireless devices.

Consider **claim 4** and **as it applies to claim 3 above,** Morlitz as modified by Pepper et al. and Shanman et al., further discloses the claimed apparatus, wherein the request is from a client device (In the Morlitz reference, Fig. 3, Client request 100 which shows that a client computer 10 making a request for a web page delivery by specifying a URL of a home web page; paragraph 0028, lines 4-9 disclose the same details).

Consider **claim 17** and **as it applies to claim 16 above,** Morlitz, as modified by Pepper et al., discloses the claimed method, except wherein the request is received and the response file is sent over a wireless access network.

In the same field of endeavor, Shanman et al. disclose that the request is received from and the response is sent over a wireless access network (column 4, lines 45-52 that disclose using a wireless network to process a request for discount shopping list from users and to distribute discount coupons along with a customized shopping list to them).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a wireless access network for receiving client requests and sending responses to them, as taught by Shanman et al., in the method of Morlitz, as modified by Pepper et al., so that the customers can send their shopping requests and receive discount coupons from anywhere using their wireless devices.

Consider **claim 20**, Morlitz shows and discloses a method, comprising:
transmitting a client request for a resource having embedded data (Fig. 1, client computers 10, with communication links 14 to the Internet 16, which in turn is linked to proxy servers 28 by links 32, to web servers 22 by links 30, and to storage media 34 by links 36, thereby forming a communication network for transmitting a client request for a resource having embedded data; paragraphs 0018-0020 disclose the same details; abstract that discloses a client computer 10 making a request for a web page that has embedded child web pages and graphics and audio resources linked with the requested parent page);
receiving the request (Fig. 1 that shows a proxy server acting as a gateway to direct client's web page request to the web server; paragraph 0019 that discloses the proxy server);
bundling the obtained resource and obtained embedded data into a file (Fig. 3 that shows the contents of a bundled and compressed archive file 102; paragraphs 0024-0028 describe the same details); and
sending that file to the client over the wireless network (Fig. 3, HTTP Server Response 104 being sent to the client computer 10; paragraph 0034, lines 1-4 that disclose the same details).

However, Morlitz does not specifically mention obtaining the resource and its embedded data using a resource index file information regarding the resource and its

embedded data; and using wireless network for communication between a client computer and the gateway.

In the same field of endeavor, Pepper et al. show and disclose using a resource index file having information regarding said resource and said embedded data (Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a resource index file having information regarding said resource and said embedded data, as taught by Pepper et al., in the apparatus of Morlitz, so as to render the requested resource and all the embedded data within it to the web client for complete web page display.

However, Morlitz as modified by Pepper et al., does not disclose using wireless network for communication between a client computer and the gateway.

In the same field of endeavor, Shanman et al. disclose that the request is received from and the response is sent over a wireless access network (column 4, lines 45-52 that disclose using a wireless network to process a request for discount shopping list from users and to distribute discount coupons along with a customized shopping list to them).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a wireless access network for receiving client requests and sending responses to them, as taught by Shanman et al., in the method of Morlitz, as modified by Pepper et al., so that the customers can send their shopping requests and receive discount coupons from anywhere using their wireless devices.

Consider **claim 21** and **as it applies to claim 20 above,** Morlitz as modified by Pepper et al. and Shanman et al., further discloses the claimed method, wherein the resource is an internet resource (In Morlitz reference, Fig. 3, Client request 100 which shows that a client computer 10 making a request for a web page delivery by specifying a URL of a home web page, which is the Internet resource; paragraph 0028, lines 4-9 disclose the same details).

Consider **claim 22** and **as it applies to claim 20 above,** Morlitz, as modified by Pepper et al. and Shanman et al., further discloses the claimed method, wherein the information includes links to embedded data (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, shows a link xlink:href="blogg.jpg" in the PHOTO tag being included in the resource index file).

Consider **claim 23** and **as it applies to claim 22 above,** Morlitz as modified by Pepper et al. and Shanman et al., further discloses the claimed method, including the steps of forming a list of addresses for the embedded data, sending requests for the embedded data, and receiving the embedded data from the requests (In Morlitz reference, paragraph 0028, lines 9-23 which disclose that the web server 22 collects links for all the child web pages, grand-child pages, and embedded graphics, audio and other resources to the requested depth, and sends requests with URLs of the embedded resources, in turn receiving the embedded resource content, which it then packages and send the collected resources as an bundled response to the requesting client).

Consider **claim 25** and **as it applies to claim 20 above,** Morlitz as modified by Pepper et al. and Shanman et al., further discloses the claimed method, wherein obtaining the resource and the embedded data includes forming ~~a~~ ***the*** resource index file (in Pepper et al. reference, Fig. 1 that shows Index 155 being built by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation and use of the resource index file in specific details).

Consider **claim 27** and **as it applies to claim 20 above,** Morlitz, as modified by Pepper et al. and Shanman et al., discloses the claimed method, further including the

step of updating the resource index file (in Pepper et al. reference, Fig. 1 that shows Index 155 being built and updated by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation, update and use of the resource index file in specific details).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Morlitz (US Patent Application Publication # 2002/0065800 A1**) in view of **Pepper et al. (US Patent Publication # 7,206,777 B2)** and further in view of **Chow et al. (US Patent Publication # 7,216,154 B1).**

Consider **claim 10** and **as it applies to claim 9 above,** Morlitz, as modified by Pepper et al., discloses the claimed apparatus, except wherein the link listing is in order of the pre-determined time required to obtain the embedded data.

In the same field of endeavor, Chow et al. disclose that the link listing is in order of the pre-determined time required to obtain the embedded data (Fig. 6, entries 604-610 in row 612 and the row below it that show efficiency ranking (inverse of time to retrieve a desired resource from host sites; column 2, lines 61-67 and column 3, lines 1-3 that disclose the meaning of efficiency as used in table 600 of Fig. 6; column 4, lines 47-67 and column 5, lines 1-5 which disclose that the link listing is in order of the pre-determined time required to obtain the embedded data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to arrange the link listing in order of the pre-determined time required to obtain the embedded data, as taught by Chow et al., in the apparatus of Morlitz, as modified by Pepper et al., so that the embedded resources may be accessed from their respective host sites in the order of the delay associated with their retrieval.

Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Morlitz (US Patent Application Publication # 2002/0065800 A1**) in view of **Pepper et al. (US Patent Publication # 7,206,777 B2)** and further in view of **Shanman et al. (US Patent Publication # 7,231,357 B1)** and further in view of **Chow et al. (US Patent Publication # 7,216,154 B1).**

Consider **claim 24** and **as it applies to claim 23 above,** Morlitz, as modified by Pepper et al. and Shanman et al., discloses the claimed method, except wherein the step of forming a list of addresses includes ordering those addresses based on pre-determined times required to obtain the embedded data.

In the same field of endeavor, Chow et al. disclose that forming a list of addresses includes ordering those addresses based on pre-determined times required to obtain the embedded data (Fig. 6, entries 604-610 in row 612 and the row below it that show efficiency ranking (inverse of time to retrieve a desired resource from host sites; column 2, lines 61-67 and column 3, lines 1-3 that disclose the meaning of efficiency as used in table 600 of Fig. 6; column 4, lines 47-67 and column 5, lines 1-5

which disclose that the link listing is in order of the pre-determined time required to obtain the embedded data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to arrange the link listing in order of the pre-determined time required to obtain the embedded data, as taught by Chow et al., in the method of Morlitz, as modified by Pepper et al. and Shanman et al., so that the embedded resources may be accessed from their respective host sites in the order of the delay associated with their retrieval.

Consider **claim 26** and **as it applies to claim 25 above,** Morlitz as modified by Pepper et al and Shanman et al., further discloses the claimed method, wherein the formed resource index file includes a listing of the embedded files (in Pepper et al. reference, Fig. 1 that shows Index 155 being built and updated by XML indexer 150, the resource index file including information not only about the requested resource but also embedded data such as IBM logo 170, image 175 and style sheet 165; column 2, XML Example 1, lines 34-46; Fig. 2, column 6, Example 2, lines 31-67 and column 7, lines 1-7 describe the generation, update and use of the resource index file in specific details).

However, Morlitz as modified by Pepper et al. and Shanman et al., does not disclose the times required to obtain each of the embedded files.

In the same field of endeavor, Chow et al. disclose the times required to obtain each of the embedded files (Fig. 6, entries 604-610 in row 612 and the row below it that show efficiency ranking (inverse of time to retrieve a desired resource from host sites;

column 2, lines 61-67 and column 3, lines 1-3 that disclose the meaning of efficiency as used in table 600 of Fig. 6; column 4, lines 47-67 and column 5, lines 1-5 which disclose that the link listing is in order of the pre-determined time required to obtain the embedded data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to arrange the link listing in order of the pre-determined time required to obtain the embedded data, as taught by Chow et al., in the method of Morlitz, as modified by Pepper et al. and Shanman et al., so that the embedded resources may be accessed from their respective host sites in the order of the delay associated with their retrieval.

(10) Response to Argument

The examiner's Non-final Office Action dated 09-12-2007 for the application 10/780,833 relied on the first three references listed in section 8 of this Examiner's Answer. All claims (1-27) were rejected based on the cited references. In response, the appellants filed an after non-final amendment on 11-30-2007, canceling claim 5 and amending claims 1, 6-8, 12, 13, 18, 20 and 25.

The examiner sent out the Final Office Action on 01-30-2008, again rejecting claims 1-4 and 6-27 based on the cited prior art and one new reference (US Patent Publication 7,206,777 B2 -- Pepper et al.) and responding to the arguments presented by the appellants on 11-30-2007. On 03/07/2008, the appellants filed an after final amendment without substantially amending or canceling any claims, only providing

arguments for allowing the claims. The examiner responded with an advisory action, rejecting all claims, but allowing the after final amendment to be entered. In response, the appellants filed a Notice of Appeal on 04-29-2008 and an Appeal Brief on 06-20-2008.

The main point of disagreement between the appellants and the examiner appears to be the limitation of "obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data" in the independent claims 1, 12, 16 and 20. The appellants allege that the cited reference of Pepper et al. does not disclose using a resource index file to obtain a requested resource and embedded data while retrieving a requested document, although they agree that the cited reference of Pepper et al. does create a resource index file during the archival of documents, which they argue is only used as a checklist during the document archival process.

The Pepper et al. reference discloses archiving of documents with embedded resources, such as pictures, audio, video, stylesheets and logos. In the process of archiving, a resource index file is created that records not only the filename and location of the file being archived, but also the filenames and locations of all the embedded resource files within it (column 5, lines 32-67 in Pepper et al. reference). So, not only the archived file but all other resource files embedded in it are also archived. During retrieval of the archived file, the index file is used to retrieve not only the archived file, but all the embedded resource files within it, in order to make a complete web page that is returned to the browser which requested the web page (as disclosed in column 5,

lines 64-67 which state that each resource extracted from the XML document 110 is stored in the storage device 115, and indexed in an index file 155, such that the data can later be retrieved with ease").

Furthermore, when other files containing some of the same embedded resources need archiving, the index file is used to check and prevent the common embedded resources already archived from being archived multiple times. However, this enhancement requires that during retrieval, the requested document Y be parsed again to determine the embedded resources C-F it needs, because some of the embedded resources C-D may have already been archived for an earlier archived document X, which may have used some of the same embedded files A-D. As a result, such common resources C-D may be associated with document X and may not list under the requested document Y. However, all the embedded resources have their filenames and locations recorded in the resource index file, which is used to obtain the required embedded resources for document Y.

The document archival and retrieval processes are two faces of the same coin. Archival of a document just for the sake of archiving without subsequent retrieval is a meaningless process. The archived document might as well have been deleted, if it was never meant to be retrieved again. Based on that premise, the examiner cited the figures and columns/lines in the Pepper et al. reference to indicate the creation and use of an XML index file 155 (shown in Fig. 1 in the Pepper et al. reference) during the document archival process, with the understanding that in order to avoid storing embedded resource documents multiple times, the index file had to be used to look up

and obtain the list of embedded resources that had previously been saved, as claimed by the appellants' claim 1. However, the appellants argue otherwise, alleging that the resource index file created during the archival of documents is never used for document retrieval, even though it is clearly disclosed in column 5, lines 64-67 of the Pepper et al. reference.

In order to further provide the disclosure that the cited Pepper et al. reference not only discloses the archival of documents but their retrieval as well, the examiner presents the following response:

Whereas in Figs. 1-2, column 3 lines 19-49, Pepper et al. show and summarize a process of building an XML Index 155 and archiving an XML document 110 with embedded resources in it, Figs. 3-4 and column 3, lines 58-67 summarize a reverse process of retrieving the archived documents, using the XML Indexer 305 (shown in Fig. 3) to obtain the filenames and location details for the list of embedded resources in an archived XML document requested by a user's browser. Column 7, lines 60-67 through column 8, lines 1-23 describe the retrieval process in more details.

The examiner's response to the arguments presented in the Appeal Brief for specific claims is presented below:

For the **independent claim 1**, rejected under 35 U.S.C. 103(a) as being unpatentable over Morlitz (US Patent Application Publication # 2002/0065800 A1), in view of Pepper et al. (US Patent Publication # 7,206,777 B2), the appellants argue that the cited reference of Pepper et al. fails to teach or suggest the limitation of "obtaining said resource and said embedded data using a resource index file having information

regarding said resource and said embedded data", further alleging that while Pepper et al. disclose use of an index file, it is merely used for reducing duplicative storage of resources at an archive server, and not for obtaining resources or embedded data, which it obtains by parsing the XML document itself, not by using the index file.

The examiner respectfully disagrees with this assertion. As explained above, the cited Pepper et al. reference discloses not only a document archival system 100 (shown in Figs. 1-2 and disclosed in columns 4, lines 50-67 through column 7, lines 1-56), but also a document retrieval system 300 (shown in Figs. 3-4 and disclosed in columns 7, lines 57-67 through column 9, lines 1-48). In the document retrieval system 300, Pepper et al. do specifically disclose using the XML Indexer 305 corresponding to the index 155 shown in Fig. 1, to obtain the requested document and the embedded resources within it. Column 5, lines 64-67 also make it clear that each resource extracted from the XML document 110 (during the archival process) is stored in the storage device 115, and indexed in an index file 155, such that the data can later be retrieved with ease. This directly contradicts the appellants' assertion that the index file in Pepper et al. reference is not used to obtain (retrieve) resources or embedded data (Arguments section of the appeal brief, page 2, lines 7-21).

The appellants further argue that in the Pepper et al. reference, the XML indexer 305 is configured to parse the retrieved XML document 110 based on the individual XML tags (e.g., "href") contained within the retrieved XML document 110, and to identify the resources associated with the XML tags (Arguments section of the appeal brief, page 2, line 10-13 and Pepper et al. reference, column 8, lines 8-12). The examiner

begs to differ with this argument. The retrieved XML document is scanned to identify the resources associated with the XML tags, and then the filenames and locations of the identified embedded resources are determined by using the indexer 305, in which this information was previously stored during the archival of the document. The parsing of the XML document 110 during the retrieval process by no means excludes the use of the index file 155 (shown in Fig. 1 and clearly disclosed in column 5, lines 64-67) during the retrieval process.

The appellants further allege that the cited portion of Pepper et al. is devoid of any teaching or suggestion of subsequent use of the index file, much less use of the index file to obtain the XML document and the resources of the XML document (Arguments section of the appeal brief, page 5, lines 2-7). The examiner has shown above that such is not the case. The appellants should review the cited reference in its entirety, and not just limit the review to the cited columns and lines to draw the conclusions.

For the independent claims 12, 16 and 20, the appellants provide the same argument that they provided for claim 1, which has already been responded to by the examiner, and, therefore, need no new response. No new argument is presented for any of the dependent claims either. Therefore, the examiner considers **claims 1-4 and 6-27 to be not allowable, and recommends upholding the rejections of all the claims.**

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Kishin G Belani/

Examiner, Art Unit 2143

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2143

Conferees

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